

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 JEFFREY M. PHILLIPS  
Deputy Attorney General  
4 State Bar No. 154990  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-6292  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2012-368**

12 **KITREN DIANE SMITH,**  
13 **aka KITREN DIANE ENDICOTT,**  
**aka KITREN D. WILLETTE SMITH**  
14 **7224 S. Woodland Drive**  
**Radcliff, Kentucky 40160**  
15 **Registered Nurse License No. 435870**

**A C C U S A T I O N**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),  
21 Department of Consumer Affairs.

22 2. On or about February 28, 1989, the Board issued Registered Nurse License Number  
23 435870 to Kitren Diane Smith, also known as Kitren Diane Endicott and Kitren D. Willette Smith  
24 ("Respondent"). Respondent's registered nurse license was in full force and effect at all times  
25 relevant to the charges brought herein and will expire on October 31, 2012, unless renewed.

26 **STATUTORY PROVISIONS**

27 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that  
28 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing  
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision  
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed  
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct . . .

11 . . . .

12 (4) Denial of licensure, revocation, suspension, restriction, or any other  
13 disciplinary action against a health care professional license or certificate by another  
14 state or territory of the United States, by any other government agency, or by another  
California health care professional licensing board. A certified copy of the decision  
or judgment shall be conclusive evidence of that action . . .

#### 15 **COST RECOVERY**

16 6. Code section 125.3 provides, in pertinent part, that the Board may request the  
17 administrative law judge to direct a licentiate found to have committed a violation or violations of  
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
19 enforcement of the case.

#### 20 **CAUSE FOR DISCIPLINE**

##### 21 **(Disciplinary Action by the Kentucky Board of Nursing)**

22 7. Respondent is subject to disciplinary action pursuant to Code section 2761,  
23 subdivision (a)(4), on the grounds of unprofessional conduct, in that she was disciplined by the  
24 Kentucky Board of Nursing ("Kentucky Board"), as follows: On or about May 28, 2009,  
25 pursuant to the Agreed Order in the disciplinary proceeding titled "In Re: Kitren D. Willette  
26 Smith", the Kentucky Board placed Respondent on probation for a period of at least three (3)  
27 years on terms and conditions. A true and correct copy of the Agreed Order is attached as exhibit  
28 A and incorporated herein by reference. Respondent stipulated to the following facts: On

1 January 7, 2009, Respondent self-reported to the Board that she had admitted herself to  
2 Stepworks Addiction Resources' KY Detox Center for treatment of alcohol abuse. Respondent  
3 was subsequently admitted to their Intensive Outpatient Program with a plan to attend 24 sessions  
4 and 6 months of aftercare. Respondent was discharged from the Intensive Outpatient Program on  
5 February 17, 2009, and started seeing a therapist at Life Designs.

6 **PRAYER**

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
8 and that following the hearing, the Board of Registered Nursing issue a decision:

- 9 1. Revoking or suspending Registered Nurse License Number 435870, issued to Kitren  
10 Diane Smith, also known as Kitren Diane Endicott and Kitren D. Willette Smith;  
11 2. Ordering Kitren Diane Smith, also known as Kitren Diane Endicott and Kitren D.  
12 Willette Smith, to pay the Board of Registered Nursing the reasonable costs of the investigation  
13 and enforcement of this case, pursuant to Business and Professions Code section 125.3;  
14 3. Taking such other and further action as deemed necessary and proper.

15  
16 DATED: December 15, 2011

*Louise R. Bailey*  
\_\_\_\_\_  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

27  
28 SA2011102279

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

**EXHIBIT A**

**Agreed Order**

## KENTUCKY BOARD OF NURSING

## AGREED ORDER

CASE # 2009-737

IN RE: KITREN D. WILLETTE SMITH

RN LICENSE # 1101802

The Kentucky Board of Nursing, hereinafter referred to as the Board, has probable cause to believe that Kitren D. Willette Smith has violated KRS Chapter 314. Kitren D. Willette Smith, desiring to avoid a formal administrative hearing, enters into this Agreed Order with the Board.

The Board acknowledges receipt of a chemical dependency evaluation from Stepworks Addiction Resources, Elizabethtown, Kentucky, on February 12, 2009 which indicates a diagnosis of alcohol dependence. The Board also acknowledges receipt of an evaluation with recommendations from Life Designs, Elizabethtown, Kentucky on April 2, 2009.

Kitren D. Willette Smith, hereinafter referred to as Ms. Smith, agrees and stipulates to the following facts for the limited purpose of this Agreed Order:

On January 7, 2009, Ms. Smith self-reported to the Board that she had admitted herself to Stepworks Addiction Resources' KY Detox Center for treatment of alcohol abuse. She was subsequently admitted to their Intensive Outpatient Program with a plan to attend twenty-four (24) sessions and six (6) months of aftercare. Ms. Smith was discharged from the Intensive Outpatient Program on February 17, 2009. She has since started seeing a therapist at Life Designs.

Ms. Smith acknowledges these actions are in violation of KRS 314.091(1)

- (d) has negligently or willfully acted in a manner inconsistent with the practice of nursing;
- (f) abuses use of controlled substances, prescription medications, or alcohol;
- (j) has violated any of the provisions of this chapter;

Ms. Smith has read and reviewed this Agreed Order and has had the opportunity to consult with legal counsel, if desired. She understands and agrees to the following conditions for the limited purpose of this Agreed Order:

1. By entering into this Agreed Order Ms. Smith waives the full panoply of rights of hearing and appeal as authorized by statute, regulation, or court decision. These rights include the right to be present with counsel, to subpoena witnesses, to confront those against her, and the right to an administrative hearing or appeal on the violation or non-compliance with any of the conditions or provisions of this Order.
2. When this Agreed Order becomes effective, Ms. Smith's nursing license will be placed on limited/probated status for a period of at least three (3) years ~~as an~~ as a registered nurse.

I certify this to be a true copy of the record(s) on file with the Kentucky Board of Nursing



KITREN D. WILLETTE SMITH

Agreed Order

Page 2

3. All terms of this Agreed Order will begin immediately upon notification that the Board has entered this Order.
4. The period of limitation/probation will continue until she has been employed as a registered nurse for a period of at least three (3) years, and until all terms of this Order are met.
5. Periods of time in which Ms. Smith is not employed as a nurse will be excluded from the computation of probationary time.
8. Employment in fields other than nursing does not relieve her of compliance with all other terms and conditions of this Order.
9. If she has not obtained employment as a nurse within one year of the date of the entry of this Order the Board may consider the matter for re-evaluation or amendment of this Order. A report form will be made available for this purpose. Ms. Smith agrees to abide by the Board-directed determination.
10. While on limitation/probation:
  - a) she agrees not to practice nursing in any other state which is a party state to the Nurse Licensure Compact without prior written authorization by the Board and the nursing regulatory authority in the party state in which she wishes to practice.
  - b) she may not be employed in a nursing position that requires her to provide direct patient care in the following settings: nurse registry, temporary nurse employment agency, or home health care;
  - c) she may not work overnight hours without onsite supervision nor be scheduled to work more than eighty-eight (88) hours per two-week period. The nursing position may be a full-time or a part-time position but must require her to work at least thirty-two (32) hours per month;
  - d) she will provide a complete copy of this Order to her immediate nursing employers including, but not limited to, nursing recruiters or human resources staff during the interview process;
  - e) she will provide a complete copy of this Order to her immediate nursing manager and will have the manager discuss the terms of this Order with Board staff, within fourteen (14) days of employment. Ms. Smith will notify Board staff in writing if there is a change of nursing managers;

**KITREN D. WILLETTE SMITH**

Agreed Order

Page 3

- f) she will provide a complete copy of this Order immediately to the program of nursing administration, if enrolled in such, and will have the program acknowledge to Board staff, in writing, that she has provided the school with a complete copy of the Order;
- g) during the three (3) years of practice on limitation/probation, she may not be employed in a managerial or supervisory nurse position;
- h) she will have quarterly written reports submitted as determined by Board staff by her nursing employer(s). Report forms will be made available for this purpose. The employer will verify Ms. Smith's compliance with each practice limitation on each report;
- i) she will have written reports submitted as determined by Board staff by her therapeutic counselor(s) or primary therapist, until documented release from counseling;
- j) an employer report of substantiated unsafe nursing practice, noncompliance with any of the limitations placed on her practice, or evidence of substance abuse; or a counselor's or primary therapist's report of noncompliance with the therapeutic plan of care constitutes evidence of a violation of the terms of this Order;
- k) she will submit written verification as determined by Board staff of continued weekly participation in an AA/NA support group;
- l) she will submit random body fluid samples for drug/alcohol testing utilizing the drug screen program designated by the Board and as requested by her employer(s), Board staff, counselor(s), or therapist(s). Ms. Smith will comply with all requirements of the drug screen program concerning random alcohol and drug testing. All testing will be at Ms. Smith's expense. A GC/MS (gas chromatography/mass spectrometry) or LC/MS (liquid chromatography/mass spectrometry) confirmed drug screen indicating the use of alcohol or any unprescribed mood-altering substance constitutes evidence of violation of the terms of this Order;
- m) she will remain free of alcohol and all mood-altering substances, including over-the-counter medications containing alcohol or mood-altering substances. A practitioner who has full knowledge of Ms. Smith's history of chemical/alcohol use must prescribe any mood-altering medication and it is Ms. Smith's responsibility to assure such knowledge. Ms. Smith must obtain from the prescribing practitioner written verification of any prescription medication and submit to Board staff within five (5) days and on a monthly basis, if there is a continued need for the medication. Report forms will be made available for this purpose. A consultation with an advanced registered nurse practitioner who specializes in chemical dependency, a physician who specializes in chemical dependency, or a physician addictionologist may be required;

KITREN D. WILLETTE SMITH

Agreed Order

Page 4

- n) she will submit a list of the health practitioners who are providing health care to her and who are prescribing any medication for Ms. Smith's use;
  - o) she will meet with Board staff in the Kentucky Board of Nursing office or at a designated location as requested. The Board staff will determine the frequency of the meetings and Ms. Smith will abide by that determination;
  - p) Ms. Smith will provide evidence of successful completion of at least thirty (30) contact hours on substance abuse by July 1, 2009. The thirty (30) contact hours are to be in addition to the continuing education requirement for reinstatement or renewal of the nursing license;
  - q) she will pay a civil penalty of eighteen hundred dollars (\$1800) to the Board by March 1, 2012;
  - r) she will notify Board staff in writing of any change of name, address, nursing employment, termination, or disciplinary action as a nurse in another jurisdiction within fifteen (15) days of the event;
  - s) she will notify Board staff in writing of any criminal arrest, charge, indictment, or conviction within fifteen (15) days of the event.
11. Submission of fraudulent documents or reports; misrepresentation of facts relating to the terms and conditions of this Order or failure to comply with any requirement of this Order will constitute violation of the Order.
12. Ms. Smith specifically agrees and acknowledges that her failure to comply with any of the conditions and provisions of this Agreed Order, allowing the nursing license to lapse, or inability to obtain licensure in a compact state will result in immediate suspension of the nursing license or denial of reinstatement of a lapsed, invalidated, or expired license, with notification by mail. The suspension or denial of reinstatement will begin on the date of the notification letter and will continue for a period of at least one (1) year. Implementation of the suspension or denied reinstatement will result in an additional civil penalty of six hundred dollars (\$600). Reinstatement of the nursing license after such a suspension or denial of reinstatement will be in accordance with the Board's Guidelines for Reinstatement that may include but not be limited to the terms and conditions as set out in this Order.
13. Removal of the nursing license from limitation/probation will depend on compliance with all terms stated in this Order. If all terms are met, and if she has not committed any act during the limited/probated period that would be grounds for disciplinary action pursuant to KRS Chapter 314, no hearing will be required for removal of the nursing license from limitation/probation.



